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# HOUSE BILL No. 1784

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-15; IC 36-7-4-918.6.

**Synopsis:** Disposal of infectious waste. Requires the department of environmental management to hold at least three local public hearings on a permit relating to a hazardous waste facility that disposes of infectious waste. Adds 30 days to the department's permit review period. In Lake County, requires an affirmative vote of the legislative body for approval of a special use petition for a hazardous waste disposal facility for the disposal of infectious waste. Voids an approval of such a petition after June 30, 2004, that resulted from inaction of the legislative body.

**Effective:** Upon passage.

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January 19, 2005, read first time and referred to Committee on Environmental Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1784

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-15-3-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Subject to**  
3 **subsection (c)**, a public hearing shall be held on the question of:

4 (1) the issuance of an original or a renewal permit for a hazardous  
5 waste disposal facility under IC 13-22-3; or

6 (2) the issuance of an original permit for a solid waste disposal  
7 facility or a solid waste incinerator regulated under IC 13-20-8;  
8 as provided in subsection (b).

9 (b) A public hearing shall be held under subsection (a) upon:

10 (1) the request of the applicant;

11 (2) the filing of a petition requesting a public hearing that is  
12 signed by one hundred (100) adult individuals who:

13 (A) reside in the county where the proposed or existing facility  
14 is or is to be located; or

15 (B) own real property within one (1) mile of the site of the  
16 proposed or existing facility; or

17 (3) the motion of the commissioner.



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(c) With respect to the issuance under IC 13-22-3 of an original or a renewal permit for a hazardous waste disposal facility for the disposal of infectious waste (as defined in IC 16-41-16-4), at least three (3) public hearings shall be held at least ten (10) days apart on the question of the issuance of the permit. The requirement for holding one (1) of the three (3) public hearings is satisfied if a public hearing initiated under subsection (b) is conducted within a county affected by the proposed permit.

~~(c)~~ The (d) A public hearing authorized by this section does not constitute an agency action under IC 4-21.5.

SECTION 2. IC 13-15-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **Except as provided in subsection (b)**, if the petition under section 3(b)(2) of this chapter requests that the public hearing be conducted at a location within a county affected by a proposed permit, the department shall conduct the public hearing at that location.

(b) **All the public hearings required under section 3(c) of this chapter shall be conducted within a county affected by a proposed permit.**

SECTION 3. IC 13-15-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Except as provided in subsection (c)**, this section does not apply to permit applications described in section ~~1(1)~~ 1(a)(1) or ~~1(2)~~ 1(a)(2) of this chapter.

(b) If the department determines that a public hearing should be held under:

- (1) IC 13-15-3-3; or
- (2) any other applicable rule or law;

the commissioner has thirty (30) days in addition to the number of days provided for in section 1 of this chapter in which to approve or deny the application.

(c) **With respect to the issuance under IC 13-22-3 of an original or a renewal permit for a hazardous waste disposal facility that disposes of infectious waste (as defined in IC 16-41-16-4), the commissioner has thirty (30) days in addition to the number of days provided for in section 1 of this chapter in which to approve or deny the application.**

SECTION 4. IC 13-15-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 2 of this chapter:

- (1) after the comment period; or
- (2) if:

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(A) a public hearing is held, after the public hearing; or  
 (B) more than one (1) public hearing is held, after the last  
 public hearing;

the commissioner shall issue the permit or deny the permit application.

(b) Unless the commissioner states otherwise in writing, the commissioner's action under this section is effective immediately.

(c) Notice of the commissioner's action shall be served upon the following:

(1) The permit applicant.

(2) Each person who submitted written comments under section 1 of this chapter.

(3) Each person who requests notice of the permit determination.

(4) The Administrator of the United States Environmental Protection Agency if service is required under the applicable federal law.

(d) If the commissioner's action is likely to have a significant impact upon persons who are not readily identifiable, the commissioner may publish notice of the action on the permit application in a newspaper of general circulation in the county affected by the proposed permit.

SECTION 5. IC 36-7-4-918.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 918.6. (a) This section applies to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) ADVISORY—AREA. Notwithstanding sections 918.2, 918.4, and 918.5 of this chapter, a zoning or subdivision control ordinance shall require that the board of zoning appeals submit any of the following petitions to the legislative body for approval or disapproval:

(1) Special exceptions.

(2) Special uses.

(3) Use variances.

(c) ADVISORY—AREA. The board of zoning appeals shall file a petition under this section with the clerk of the legislative body with:

(1) a favorable recommendation;

(2) an unfavorable recommendation; or

(3) no recommendation.

(d) ADVISORY—AREA. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the petition at its first regular meeting after the board of zoning appeals files its recommendation.

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(e) **ADVISORY—AREA.** **Except as provided in subsection (g),** a petition is granted or denied when the legislative body votes on the petition as follows:

(1) In a county described in subsection (a)(1), the legislative body shall vote on the petition within ninety (90) days after the board of zoning appeals makes its recommendation. If the legislative body does not vote to deny the petition within ninety (90) days, the petition is considered approved.

(2) In a county described in subsection (a)(2), the legislative body shall vote on the petition within sixty (60) days after the board of zoning appeals makes its recommendations. If the legislative body does not vote to deny the petition within sixty (60) days, the petition is approved.

(f) **ADVISORY—AREA.** If the legislative body approves a petition, it must make the determination in writing as required under section 918.2, 918.4, or 918.5 of this chapter or as required by the zoning ordinance.

**(g) In a county described in subsection (a)(1), a special use petition for a hazardous waste disposal facility for the disposal of infectious waste (as defined in IC 16-41-16-4) is granted if the legislative body votes to grant the petition within ninety (90) days after the board of zoning appeals makes its recommendation. If the legislative body does not vote to approve or deny the petition within ninety (90) days after the board of zoning appeals makes its recommendation, the petition is considered denied.**

**SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION:**

(1) "hazardous waste disposal facility" means a hazardous waste disposal facility subject to permitting under IC 13-22;

(2) "infectious waste" has the meaning set forth in IC 16-41-16-4; and

(3) "legislative body" has the meaning set forth in IC 36-1-2-9.

**(b) This SECTION applies to a county referred to in IC 36-7-4-918.6(a)(1).**

**(c) An approval after June 30, 2004, of a special use petition filed under IC 36-7-4-918.6, as that section existed on July 1, 2004, for a hazardous waste disposal facility for the disposal of infectious waste is void if the approval resulted from the failure of the legislative body to vote to deny the petition within the period required under that section. The petitioner may resubmit the petition before January 1, 2006, to the legislative body for consideration under IC 36-7-4-918.6, as amended by this act.**

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1       **(d) This SECTION expires January 1, 2006.**

2       SECTION 7. [EFFECTIVE UPON PASSAGE] IC 13-15-3-3,  
3       IC 13-15-3-4, IC 13-15-4-2, and IC 13-15-5-3, all as amended by  
4       this act, apply only to permit applications filed with the  
5       department of environmental management after the effective date  
6       of this act.

7       SECTION 8. [EFFECTIVE UPON PASSAGE] IC 36-7-4-918.6, as  
8       amended by this act, applies only to special use petitions filed with  
9       the clerk of the legislative body under that section after the  
10      effective date of this act.

11      SECTION 9. An emergency is declared for this act.

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